

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
IP-Enabled Services	)	WC Docket No. 04-36
	)	

**REPLY COMMENTS OF THE TELECOMMUNICATIONS INDUSTRY ASSOCIATION**

The Telecommunications Industry Association herein replies to the comments filed in response to the Notice of Proposed Rulemaking in the above-captioned proceeding.<sup>1</sup>

TIA is the leading national trade association representing the communications and information technology industry, with over 700 member companies that manufacture or supply the products and services used in global communications. In its initial comments in this proceeding,<sup>2</sup> TIA expressed its support of the Commission undertaking this proceeding to address the wide array of regulatory issues implicated by IP-enabled services, including voice over IP (VoIP). TIA's comments urged the Commission to establish an exclusive national policy framework for IP services offered in the U.S. that recognizes its limited authority over IP-enabled services and, in the case of VoIP, the inapplicability of legacy regulations that have governed traditional telephone

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<sup>1</sup> *In the Matter of IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, FCC 04-27 (Feb. 19, 2004) ("NPRM").

<sup>2</sup> Comments of the Telecommunications Industry Association (filed May 28, 2004).

service. In light of the interstate and international nature of IP communications, TIA also observed that Commission decisions will have an important impact on global developments.<sup>3</sup>

An overwhelming number of parties filing initial comments support the Commission asserting exclusive federal jurisdiction over IP services.<sup>4</sup> Clearly, it is widely understood that IP communications must be characterized as *interstate* applications or services subject solely to federal jurisdiction because such services include inextricably intertwined and indistinguishable intrastate and interstate, and, in many cases, international components. Official and forceful Commission acknowledgment of its jurisdiction would reduce risks associated with IP network investment and product development by preventing a patchwork of state and local regulations.

Timing is critical on this important jurisdictional question as some states have attempted to regulate VoIP providers as telephone companies and others are contemplating it. These state efforts are chilling investment in IP technologies. The Commission needs to now move beyond the important but limited steps it took in the *Pulver.com* decision.<sup>5</sup> Because the state threat is very real, TIA urges the Commission to act immediately to assert federal jurisdiction, in other words to

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<sup>3</sup> TIA applauds the initiative of the FCC's Internet Policy Working Group to hold a roundtable discussion on July 30, 2004 to address international issues associated with the migration of communications services and applications to IP-based technologies.

<sup>4</sup> See, e.g., Comments of Alcatel at 9-13; AT&T at 42-48; BellSouth at 10-20; Bend Broadband at 13-19; Cablevision at 11-13; Consumer Electronics Association at 3-4; Cisco Systems at 3-7; Computer and Communications Industry Association at 20-23; Computing Technology Industry Association at 12-14; Covad at 17-22; CTIA at 2-7; Electronic Frontier Foundation at 6-7; Information Technology Association of America at 12-22; Level 3 Communications at 13-22; Motorola at 4-7; NCTA at 32-41; Net2Phone at 12-19; NexVortex at 6; Nortel Networks at 14; Nuvio at 6-8; Pact-West Telecomm at 8-13; Qwest Communications at 25-35; SBC Communications at 25-33; USTA at 36-38; Valor Telecommunications of Texas and Iowa Telecommunications Services at 8-9; Verizon at 31-39; Vonage at 14-22.

<sup>5</sup> *Petition for Declaratory Ruling that Pulver.com's Free World Dialup is Neither Telecommunications Nor a Telecommunications Service*, WC Docket No. 03-45, Memorandum Opinion & Order, FCC 04-27 (rel. Feb. 12, 2004) ("*Pulver.com*").

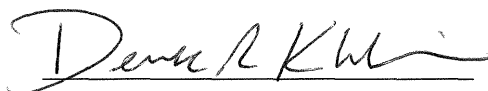
“occupy the space” now.<sup>6</sup> Moreover, such action need not await resolution of all of the many difficult issues encapsulated in the *NPRM*. TIA therefore firmly supports the Commission “parceling off” the jurisdictional component of the rulemaking, if necessary, in order to assure that it is resolved in the immediate future, and certainly by the end of 2004.

A clear Commission pronouncement of exclusive federal jurisdiction over IP-enabled services would at least offer the IP community a sense of certainty that state and local regulations could not become roadblocks to deployment of such services. It also would put the states on definitive notice that an exclusive federal policy is being developed. Importantly as well, all stakeholders could then focus efforts on formulating the appropriate federal framework for IP services and on seeking creative industry-led solutions that address the important public interest objectives that have been recognized by the Commission and commenters alike.

In summary, TIA reiterates the points made in its initial comment filing in this proceeding and urges the Commission to act immediately to declare exclusive federal jurisdiction over IP-enabled services in the U.S.

Respectfully submitted,

TELECOMMUNICATIONS INDUSTRY ASSOCIATION



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<sup>6</sup> See Comments of Motorola at 7.